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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,669	07/31/2003	Roberto Monaci	37955/GM/cb	7932

7590

04/05/2006

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EXAMINER

DIXON, MERRICK L

ART UNIT	PAPER NUMBER
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1774

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

CM

Office Action Summary	Application No. 10/630,669	Applicant(s) MONACI, ROBERTO	
	Examiner Merrick Dixon	Art Unit 1774	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

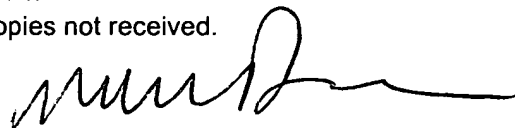
Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.



**MERRICK DIXON
PRIMARY EXAMINER**

Attachment(s)

- | | |
|--|---|
| <p>1) <input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____.</p> |
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The Terminal Disclaimer of 1-20-06 is hereby acknowledged.

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Broersma(US 5699561).

The cited reference teaches the claimed composite polymeric material as claimed comprising expanded polypropylene beads material dispensed in urethane resinous matrix material- col 2, lines 62-67; col 3, lines 1-26. concerning claim 4, the reference teaches similar types polymeric material in col 3, lines 8-12; col 4, lines 12-16.

concerning claim 5, the reference teaches helmet product material as claimed- figs 1 &

2. concerning claim 2, the reference teaches urethane resin in col 4, lines 8-19.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3, 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broersma(US 5699561).

The reference teaches polyurethane resin material as discussed above, inter alia. It is submitted it would have been obvious to the skilled artisan to make/form such resin with

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either isocyanate and polyol material as claimed, in the absence of unexpected results . concerning new claims 6-9, it is submitted the reference indeed teaches such claimed beads's distribution- see figures. The expanded beads of the reference would indeed contain air, i.e., void. It is further submitted that it would have been obvious to select a known material on the basis of its suitability for its intended use. In re Leshin, 125 USPQ 416.

5. Applicant's arguments filed 1-20-06 have been fully considered but they are not persuasive. Applicants argue that resulting article of the claimed invention would have light-weight structure with desirable energy absorbing properties. Applicants further argue the cited reference teaches preexpanded beads and that the reference teaches a two-part foam system. The examiner disagrees, the reference, as cited, teaches such claimed polymeric material, now claiming the resin to be polymerized, is also included in the reference's disclosure. Applicants are requested to provide related support for the resin, s now claimed. Applicants argument directed to , whether the product possess particular properties/characteristics is studied. The examiner respectfully remind applicants that the office is in no position to determine experimentally whether or not, in a product such as that at issue, the subject matter known is the same as that known in the prior art. Accordingly, in such instances, this shifts the burden to applicants who have the resources to make a clear distinction and to better experimentally define and identify the differences between the teachings of the reference, as submitted by the examiner, and and the claimed invention.

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6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Applicants who wish to send a facsimile (draft copies) for the examiner's immediate review can do so by using the Examiner's personal fax number at 571-273-1520. The faxing of all papers must conform with the notice published in the Official Gazette, 1096 O.G. 30 (November 15, 1989). **NOTE: All facsimiles sent to the examiner's**

personal fax number should be in draft-forms and will be treated as informal.

Same facsimiles will not be entered in the related applications unless otherwise agreed and noted by the examiner.

The fax number for all other fascimile is 571-273-8300.

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Information about **the status of an application** may be obtained from the Patent Information Retrieval system (**Private PAIR**).

Status inquiries for **published applications** may be retrieved from either **Private PAIR** or **Public PAIR**. Questions about the PAIR system should be directed to the Electronic Business Center at **866-217-9197**.

Any questions concerning the instant communication should be directed to Examiner Dixon, at 571-272-1520, Mondays, Wednesdays and Thursdays, between 12 noon and 8 PM, eastern time .

A handwritten signature in black ink, appearing to read 'Merrick Dixon', with a long horizontal flourish extending to the right.

Merrick Dixon

Primary Examiner

Group 1700